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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/447,259	11/23/1999	JAMES D. MARKS	3042/0G691	3586
7590 07/05/2005				
DARBY & DARBY P.C. 805 Third Avenue New York, NY 10022			EXAMINER JEANTY, ROMAIN	
			ART UNIT 3623	PAPER NUMBER

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/447,259

Applicant(s)

MARKS ET AL.

Examiner

Romain Jeanty

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 28 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4,6-9,40,43-49,52,54-57,88,91-98 and 103-208 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 6-9, 40, 43-49, 52, 54-57, 88, 91-98, 103-208 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

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### **Detailed Action**

#### **Response to Amendments**

1. This Office Action is in response to the communication received January 28 2005.

Claims 1, 4, 6-9, 40, 43-49, 52, 54-57, 88, 91-98, 103-208 are pending in the application.

Applicant's amendment filed January 28, 2005 has overcome the 35 U.S.C 112 first rejection. The rejection has been withdrawn

#### **Claim Rejections - 35 USC § 103**

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 4, 40, 43-45, 49, 52, 88, 91-92, 97-98, 103-128, 132-147, 149-154, 156-168, 172, 176-189, 194-197, 199, and 201-208 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dworkin et al (Hereinafter refereed to as Dworkin) in view of Uyama (U.S. Patent No. 5,819,267).

As per claims 1, 43-45, 49, 52, 91-92, 97-98, 119, 132-133, 137-138, 141-143, 146-147, 149-153, 156-157, 164, 166, 176, 185, 194, 199, 205, Dworkin discloses a system that provides answers from experts to questions posed by users (col. 3, lines 1 -7). The question and answer system is administered by a page or sites. The three site pages are three distinct fora because each is located at a separate site locations and each permit exchange of information between user

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and expert on each page. All three sites have at least one expert in common (medical expert" as seen in the central portion of FIG. 7).

receiving the questions at the server (5) from the one of the users located at computers la and lb (column 3, lines 22-24), the questions are routed to the expert either based on explicit request of the user or automated processing of the question (col. 7, lines 10-13), the expert interface is interface is a telephone which notifies the expert of the question. Note column 7, lines 10-13). Figure 6 shows a series of openly available questions which are posted by the users of the system, the expert issues a command, via the telephone which is a response to the question. The answer is transcribed from verbal form to written and graphical form "note transcriber 7", and posted on each of the three distinct fora of Figures 7, 8 and 9.

Dworkin does not explicitly disclose executing a command from the expert automatically. Uyama in the same of endeavor discloses the concept of processing a reply automatically from an expert (consultant) (i.e., processing replies implies involving a command from the selected expert (the consultant answering the question) (col. 3, lines 20-22). It would have been obvious to person of ordinary skill in the art at the time the invention was made to modify the disclosures of Dworkin to incorporate processing replies which implies involving a command from the selected expert as evidenced by Uyama in order to make it easy for expert respondents to provide answers to questions.

As per claim 4, Dworkin further discloses wherein receiving a command includes receiving a command to post an answer to the questions. Note the abstract.

As per claim 40, Dworkin discloses a system that provides answers from experts to questions posed by users (col. 3, lines 1-7). The question and answer system is administered by

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a pages or sites. The three site pages are three distinct fora because each is located at a separate site locations and each permit exchange of information between user and expert on each page. All three sites have at least one expert in common (medical expert" as seen in the central portion of FIG. 7).

receiving the questions at the server (5) from the one of the users located at computers 1a and 1b (column 3, lines 22-24), the questions are routed to the expert either based on explicit request of the user or automated processing of the question (col. 7, lines 10-13), the expert interface is interface is a telephone which notifies the expert of the question. Note column 7, lines 10-13). Figure 6 shows a series of openly available questions which are posted by the users of the system, the expert issues a command, via the telephone which is a response to the question. The answer is transcribed from verbal form to written and graphical form "note transcriber 7", and posted on each of the three distinct fora of Figures 7, 8 and 9.

Dworkin does not explicitly disclose executing a command from the expert automatically. Uyama in the same of endeavor discloses the concept of processing a reply automatically from an expert (consultant) (i.e., processing replies implies involving a command from the selected expert (the consultant answering the question) (col. 3, lines 20-22). It would have been obvious to person of ordinary skill in the art at the time the invention was made to modify the disclosures of Dworkin to incorporate processing replies which implies involving a command from the selected expert as evidenced by Uyama in order to make it easy for expert respondents to provide answers to questions.

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Claim 88 recites the same limitations as claim 1 above except for the limitation of transmitting component configured to transmit the question from the client interface to the server. In addition, Dworkin teaches such transmitting step. Note col. 6, lines 40-50 of Dworkin.

As per claim 103, 108-109, 111, 116-117, 121, 125-126, 134, 143, 154, 158, 162-163, 177, 180, 182-183, 185, 195-197, 199, 202, 206-207, as seen in FIG. 7, each question includes a source field which is the field identifying who submitted. In FIG. 7, the source field "Submitted By" identifies "Joe Ross, M.D." as the submitter.

As per claims 104-107, 110, 114-115, 118, 120, 124, 127-128, 165, 167, 180-184, 186-188, 201, 205, 208, strictly speaking, each user interface (1a) and (1b) is also a forum because a forum requires nothing more than an interface between two people. Since each user interface allows communication between the user and the expert, each user interface creates a separate forum. In this instance, questions will be directed to the expert from different fora.

As per claims 112-113, 122-123, 135-136, 138-140, 144-145, 159-161, 168, 172, 178-179, 181, 184, 189, 203-204, answers are posted to the question each of a plurality of for a (FIG. 7-9 respectively). The answers are posted at substantially the same time, that particular time being after the expert has transcribed a response.

4. Claims 6-7, 46, 54-55, 93-94, 129-131, 148, 174-175, 192-193, 198, 200, are rejected under 35 U.S.C. 103(a) as being unpatentable over Dworkin et al (Hereinafter referred to "Dworkin" U.S. Patent No. 6,026,148) in view of Uyama (U.S. Patent No. 5,819,267), and further in view of Stephanou (U.S. Patent No. 6,505,166).

As per claims 6-7, 46, 54-55, 93-94, 129-131, 148, 174-175, 192-193, 199, and 200, the combination of Dworkin and Uyama discloses the step of receiving a command (see claim 1

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above), but fails to explicitly disclose receiving a command to refer the question to another one of the expert. Stephanou in the same field of endeavor, teaches an expert referral system for referring a question to another expert (col. 9, lines 1-32). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify the disclosures of Dworkin to include the expert referral system of Stephanou in order to respond to queries for help from customers who are in need.

5. Claims 8-9, 47-48, 56-57, 95-96, 155, 169-171, 173, 190-191 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dworkin et al (Hereinafter refereed to as "Dworkin") in view of Uyama and further in view of Walker (U.S. Patent No. 5,862,223).

As per claims 8-9, 47-48, 56-57, 95-96, 155, 169-171, 173, 190-191, Dworkin fails to explicitly disclose receiving commands to edit answers. It was old and well known in the art at the invention was made to allow editing of answers posted to a database such as know-how database or more commonly a knowledge base of answers and that such systems existed at the time of the present invention being such feature. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to provide editing of the answers to update knowledge and to allow for the correction of errors to maintain the integrity of a know-how database.

As to attachments, Walker teaches the use of email system as a communication means between expert and user in an expert question/answer system such as taught by Dworkin and disclosed by the instant invention. It was old and well known in the art at the time the invention was made to attach files of additional materials images, documents, and multimedia files to emails to supplement the information provided in text form. Therefore, it would have been

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obvious to a person of ordinary skill in the art at the time of the invention to provide attachments to experts' answers to supplement the response by email as suggested by Walker with additional information to thereby provide a more valuable answer to the user.


### Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Romain Jeanty whose telephone number is (571) 272-6732. The examiner can normally be reached on Mon-Thurs 7:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq R. Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RJ

  
Romain Jeanty  
Primary Examiner  
Art Unit 3623  
5-16-05